



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

**5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912**

**URGENT LEGAL MATTER
REQUIRES PROMPT RESPONSE**

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

AUG 23 2012

Jeffrey Araujo, Plant Manager
Middletown Power, LLC
1866 River Road
Middletown, CT 06457

RE: Clean Air Act Section 114 Reporting Requirement

Dear Mr. Araujo:

The United States Environmental Protection Agency ("EPA") is requiring Middletown Power, LLC ("Middletown Power" or "the company") to submit certain information regarding the electrical generating plant located at 1866 River Road in Middletown, Connecticut ("the plant" or "the facility"). Pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a), EPA is authorized to require any person who owns and/or operates an emission source or any person who EPA believes may have responsive information to provide information for the purpose of carrying out any provisions of the CAA, including the New Source Review (Prevention of Significant Deterioration ("PSD") and Non-Attainment New Source Review ("NNSR")) permitting programs, 42 U.S.C. §§ 7470-7492, and 42 U.S.C. §§ 7501-7503, and the new source performance standard ("NSPS") program, 42 U.S.C. §7411. You are required to provide responses to the questions in Enclosure 1 within ninety (90) calendar days following receipt of this Information Request. Enclosure 2 includes instructions and definitions to be used for filing your response, and Enclosure 3 contains procedures for declaring any of the information as confidential business information.

Your responses should be sent to:

Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912
Attn: Tom McCusker (Mailcode: OES4-02)

If you anticipate being unable to respond fully to this Information Request within the time period specified, you must submit a sworn declaration by a responsible corporate official within twenty (20) calendar days after your receipt of this letter, specifying what information will be provided within the time specified, describing what efforts have been or are being made to obtain other responsive information and providing a detailed schedule of when such other responsive information can be provided. Upon receipt and based upon such declaration, EPA may extend the time in which responsive information must be provided.

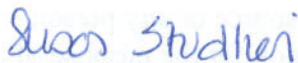
A knowing submittal of false information in response to this request may be actionable under Section 113(c)(2) of the CAA, 42 U.S.C. § 7413(c)(2), as well as 18 U.S.C. §§ 1001 and 1341. Middletown Power should also be aware that a failure to comply fully with the terms of this request may subject it to an enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413.

This letter in no way affects the obligations of Middletown Power to comply with other local, State and Federal laws and regulations. In addition, nothing in this letter shall be construed to be a waiver by EPA of any rights or remedies under the Clean Air Act.

The requirements of this letter are not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

If you have any questions concerning this matter, please contact Tom McCusker at 617-918-1862 or have your attorney call Thomas T. Olivier, Senior Enforcement Counsel, at 617-918-1737.

Sincerely,



Susan Studlien, Director
Office of Environmental Stewardship

cc: Robert Girard, CT DEEP
Gregory Fried, USEPA

Enclosures: Information Request, Instructions and Definitions, Confidential Business Information

ENCLOSURE 1
Information Request

1. Provide a list of all capital projects for each oil or gas-fired boiler, combustion turbine, steam turbine, or generator at the Middletown Power plant which:
 - a. have actual or authorized expenditures of \$250,000 or more; and
 - b. are projected to commence construction anytime over the next 24 months after the date of this letter.
 - c. The list should include, but is not limited to, the following information:
 - i. the work order number;
 - ii. project description;
 - iii. authorized expenditure;
 - iv. actual and/or projected expenditure;
 - v. date of approval;
 - vi. projected completion date;
 - vii. projected in-service date; and
 - viii. each original equipment manufacturer (OEM), equipment supplier, or contractor that provided or is anticipated to provide engineering, fabrication, and/or installation services for the project.
 - d. The list should include, but is not limited to, the following types of capital projects:
 - i. boiler casing and boiler floor/wall tube replacements;
 - ii. economizer, reheater(s), primary and secondary superheaters, steam drums, and/or primary and secondary air pre-heater replacements;
 - iii. induced draft (ID) fans, forced draft (FD) fans and fan motor replacements;
 - iv. condenser, boiler feed pump and/or feed water heater replacements;
 - v. flue gas recirculation (FGR) replacements or deactivations;
 - vi. burner replacements;
 - vii. balanced draft conversion projects;
 - viii. turbine rotor and shell replacements, turbine efficiency upgrades, turbine upgrades to increase throttle steam flow and projects designed to make use of under-utilized turbine throttle steam flow;
 - ix. low-NOx burner (LNB), overfire air, staged combustion, gas or oil reburn installation and modifications/retrofits including any model or size changes made to the burners of any unit, and including changes to the ignitors [i.e., include model and size (in mmBtu/hr)];
 - x. scrubber retrofits and/or design change projects;
 - xi. any electrostatic precipitator (ESP) or fabric filter retrofits or design changes;
 - xii. oil or gas handling system changes to increase feed rate or other changes to oil or gas preparation; and
 - xiii. changes made to equipment to accommodate the burning of fuel, other than oil or gas, in each boiler.

2. For any capital project identified in Question 1, above, that involves the replacement or partial replacement of boiler tubes, boiler walls, burners, economizers, reheaters, superheaters, primary air fans, induced draft fans, steam lines, lower slope, or turbine components, provide a copy of all documents related to and including the following:
- a. all associated capital appropriation requests and approvals;
 - b. outage reports;
 - c. total project cost (actual or projected), including all costs incurred by other owners and/or operators;
 - d. the projected completion date;
 - e. the date the unit is projected to return to commercial operation following completion of the capital project;
 - f. equipment specifications;
 - g. cost/benefit analyses;
 - h. all alternative options analyses;
 - i. a copy of all emissions calculations (actual or projected);
 - j. all engineering analyses and/or performance test(s) showing original as-built performance as well as the performance both before and after the project is completed (as applicable, or projected for the future);
 - k. all evaluations conducted or planned to verify pre- and post- completion performance of the capital project under any equipment vendor guarantee;
 - l. all work order and work request project completion reports, as applicable for associated work to prepare for future projects;
 - m. all associated purchase orders;
 - n. state whether the capital improvement is associated with a life extension project, capacity increase, efficiency enhancement, or reliability improvement;
 - o. documents related to the maximum continuous rating of the boiler, both before and after the project is completed (as applicable or projected for the future), including but not limited to documentation of changes in:
 - i. unit capacity factor;
 - ii. unit availability;
 - iii. boiler heat input;
 - iv. steam flow rate;
 - v. steam temperature;
 - vi. steam pressure;
 - vii. unit heat rate, Btu/MWh; and
 - viii. unit efficiency.
 - p. any risk analysis conducted by Middletown Power or a third party on its behalf, including but not limited to, average failures per year, average lost time per year, lost energy per event and consequence of failure related to the component/section of the boiler that is going to be replaced or redesigned as part of the project; and
 - q. all engineering analyses, correspondence, memoranda, telephone discussion summaries and any other communication, including but not limited to Board of Directors reports, meeting minutes, and annual reports, that describe the benefits, provide justification for, or otherwise explain the nature, extent, cost and frequency of each capital project. This request includes all communications both before (and after, if applicable) the capital project was undertaken.

3. Provide the following information regarding the facility's equipment used to store, transfer, and/or burn residual oil ("#6 oil") at the facility:
- a. The Reid Vapor Pressure ("RVP") of the #6 oil at the facility for shipments received over the past 2 years.
 - b. A list of each capital project, including but not limited to installations, repairs, and retrofits of process equipment (e.g. tank, barge unloading rack, pumps, piping, etc.) and process support equipment (e.g. boilers) which meet the following three criteria:
 - i. Involved the purchase, storage, distribution, or transportation of #6 oil;
 - ii. Had actual or authorized expenditures of \$100,000 or more; and
 - iii. Involved capital projects that commenced on or after January 1, 1990.
 - c. The list of capital projects above should include, but not be limited to, the following types of projects:
 - i. Conversion of a storage tank to store #6 oil;
 - ii. Insulation of a storage tank and associated #6 oil piping;
 - iii. Installation or replacement of large sections of #6 oil piping;
 - iv. Installation or replacement of a boiler and/or piping that is used to maintain temperature of #6 oil;
 - v. Installation of any type of vapor collection and control system that is used to control odors and/or reduce emissions from the storage, distribution and transportation of #6 oil;
 - vi. Repair or replacement of a tank bottom;
 - vii. Installation or replacement of pumps to move the #6 oil from the storage tank to the boiler or steam from the boiler to the tank; and
 - viii. Installation or replacement of equipment used to off-load the #6 oil from marine vessels or trucks.
 - d. For each capital project that meets the criteria in question 3.b. above, provide the following information:
 - i. Project description;
 - ii. The purpose/function of the equipment;
 - iii. The cost and date of purchase;
 - iv. The date installation was completed;
 - v. The date the equipment began operating;
 - vi. The name of the manufacturer, model number, size, maximum production rate, and any other operational specifications;
 - vii. If the change increased the capacity to transfer, use, or store the fuel, provide the capacity before and after the change; and
 - viii. Information pertaining to any emission control devices associated with such process equipment, including the type of emission control device, when such device was installed, and any data pertaining to emission reductions from use of such device.
4. Describe Middletown Power's plans in the short term and long term with the Combustion Engineering utility boiler. For example, describe any plans by Middletown Power to permanently shut down this unit or curtail its usage (hours of operation) through permit restrictions. In your response, please provide time frames or schedules, as appropriate.

5. Provide an estimate of the construction costs for the Combustion Engineering utility boiler when originally installed in the 1971 to 1973 time frame. The construction costs should include installation costs; however, they should not include associated costs with land purchases, if applicable. If available, provide complete copies of all capital appropriation requests regarding the construction and installation of the Combustion Engineering utility boiler.
6. Provide a copy of each feasibility and/or engineering study conducted subsequent to the initial start-up of the Combustion Engineering utility boiler that evaluated present and/or future production potential for this boiler. Include only studies for projects that were actually completed.
7. Provide a list of all capital appropriation requests approved subsequent to the initial start-up of the Combustion Engineering utility boiler and regarding this boiler, and any associated equipment (e.g., fuel supply lines) that were valued at or above \$100,000. In this list, provide: a brief description of the project, including an identification of any replacement parts and/or modifications made to the boiler and the associated equipment; the date the request was authorized; and, the amount of money authorized and actually spent on the project.
8. Provide the monthly amount of each type of fuel utilized in the Combustion Engineering utility boiler, and monthly average sulfur content by weight, since the boiler initially started up for commercial operation.
9. Provide copies (if any) of all power purchase agreements and any other contracts the facility entered into to sell or provide electricity that were in effect since the Combustion Engineering utility boiler initially started up for commercial operation that would have any production or capacity impact on the Combustion Engineering utility boiler.
10. Provide the annual, capacity factor for the Combustion Engineering utility boiler since it started up for commercial operation. (Provide on a calendar year basis).

ENCLOSURE 2

Instruction and Definitions

INSTRUCTIONS

1. Provide a separate narrative response to each question and subpart of a question set forth in the Information Request.
2. Precede each answer with the number of the question to which it corresponds and at the end of each answer identify the person(s) that provided information that was used or considered in responding to that question, as well as each person that was consulted in the preparation of that response.
3. Indicate on each document produced in response to this Information Request, or in some other reasonable manner, the number of the question to which it corresponds.
4. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
5. Where documents or information necessary for a response are neither in your possession nor available to you, indicate in your response why such documents or information is not available or in your possession and identify any source that either possesses or is likely to possess such information.

DEFINITIONS

All terms used in this Information Request will have their ordinary meaning unless such terms are defined in the Act, 42 U.S.C. § 7401, 40 C.F.R. Part 52 (which incorporates the federally-approved Stated Implementation Plan), or other Clean Air Act implementing regulations. Reference is made to the EPA regulatory provisions only; however, you should apply the applicable federally-approved state provisions when appropriate. Definitional clarification is specified below.

1. The terms “document” and “documents” shall mean any object that records, stores, or presents information, and includes writings, memoranda, records, or information of any kind, formal or informal, whether wholly or partially handwritten or typed, whether in computer format, memory, or storage device, or in hardcopy, including any form or format of these. If in computer format or memory, each such document shall be provided in translation to a form useable and readable by EPA, with all necessary documentation and support. All documents in hard copy should also include attachments to or enclosures with any document.
2. The term “capital appropriation requests” shall mean the documents used by Middletown Power or its predecessors’ plant personnel that serve the purpose of describing capital projects for equipment and process changes when seeking management approval for a planned expenditure at the station. These documents are also known as capital

improvement requests, authorizations for expenditure, work order records, or other similar names.

3. "Capital projects" means a monetary expenditure on depreciable equipment, including any costs to design, engineer, transport, and install said equipment. Capital projects shall include, but are not limited to, replacement of oil or gas-fired boiler or gas engine components, steam turbines, and air pollution controls. For purposes of this information request only, capital projects shall mean only those projects whose actual or estimated cost (whichever is greater) is at least \$250,000.
4. "Begin actual construction" shall have the same meaning as defined in EPA's PSD regulations, 40 C.F.R. § 52.21(b)(11).
5. The term "steam generating unit" shall have the same meaning as defined at 40 C.F.R. § 60.41(b).
6. The term "oil or gas-fired boiler" or "unit" shall mean all equipment used for the purpose of generating electricity including but not limited to: oil or gas handling facilities, including oil, gas, or dual fuel-fired boilers; ductwork; stacks; turbines; generators; and all ancillary equipment.
7. The term "PSD/NSR" shall mean the Prevention of Significant Deterioration and the New Source Review preconstruction permitting programs established at 40 C.F.R. 51 and 52 and any respective program established under a state implementation plan.
8. The term "performance" shall mean capability of the oil or gas-fired boiler to burn greater amounts of oil or gas on an hourly or annual basis, improve availability, or achieve higher efficiency.
9. The term "NSPS" shall mean the Standards of Performance for New Stationary Sources promulgated at 40 C.F.R. Part 60.
10. The term "Mw-hr" or "MWh" shall mean megawatt hours of electrical energy.
11. The term "Kw-hr" shall mean kilowatt hours of electrical energy.
12. The term "Btu" shall mean the British Thermal Unit of heat.
13. The terms "you", "the facility", "the company", "the plant", or "Middletown Power, LLC" shall mean the addressee of this Information Request, the addressee's officers, partners, managers, employees, contractors, trustees, successors, predecessors, assigns, and agents

ENCLOSURE 3
Confidential Business Information

You may assert a business confidentiality claim covering all or part of the information you provide in response to this information request for any business information entitled to confidential treatment under Section 114(c) of the Clean Air Act (the Act), 42 U.S.C. § 7414, and 40 C.F.R. Part 2, subpart B. Under Section 114(c) of the Act, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” See 40 C.F.R. § 2.201(e).

The criteria EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without your consent, and (4) the disclosure of the information is likely to cause substantial harm to your business’ competitive edge. See 40 C.F.R. § 2.208 (a)-(d). Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. See 42 U.S.C. § 7414(c); 40 C.F.R. § 2.301(e).

Information covered by a claim of business confidentiality will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Section 114(c) of the Act and 40 C.F.R. Part 2, subpart B. EPA will construe your failure to furnish a business confidentiality claim with your response to this information request as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time you submit your response to this information request. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

In addition, EPA is providing you notice that if you assert a claim of business confidentiality for information you provide in response to this information request, EPA will determine whether such information is entitled to confidential treatment, pursuant to 40 C.F.R. Part 2, subpart B. Accordingly, after EPA’s receipt of your business confidentiality claim, you will receive a letter inviting your comments on the following questions:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.
2. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.
3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
7. Is there any other explanation you deem relevant to EPA's determination of your business confidentiality claim that is not covered in the preceding questions? If so, you may provide such additional explanation.
8. See 40 C.F.R. § 2.204(e)(4). When you receive such a letter, you must provide EPA with a written response within the number of days set forth in the letter. EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1).